IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

SATURDAY, THE 18TH AUGUST 2007 / 27TH SRAVANA 1929

OP.No. 11614 of 2002(G)

PETITIONER:

K.C.SICILY, W/O.R.M.CHUNGATH,
AGED 59 YEARS, RESIDING AT CHUNGATH HOUSE,
AYYANTHOLE VILLAGE, THRISSUR-3.

BY ADV. SRI.SREELAL N.WARRIER,
SMT.SILVI JOSEPH,
SRI.M.M.VINOD KUMAR.

RESPONDENT:

TAHSILDAR, ASSESSMENT AUTHORITY
UNDER KERALA BUILDING TAX ACT,
AYYANTHOLE, THRISSUR.

BY GOVERNMENT PLEADER SRI. MATHEW JOSEPH VADAKKEL.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 18/08/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P. NO. 11614/2002:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: APPROVED PLAN.

EXT.P.2.A: BUILDING PERMITS IN RESPECT OF THE CONSTRUCTION DTD. 31/03/1997 AND 22/02/2000 ISSUED BY THE AYYANTHOLE GRAMA PANCHAYATH.

EXT.P.3: PROPERTY TAX RECEIPTS (SERIES) ISSUED BY THE TRISSUR MUNICIPALITY.

EXT.P.4: BUILDING TAX ASSESSMENT ORDER DTD. 21/03/2002 ISSUED BY THE RESPONDENT.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

prv.

T.R. Ramachandran Nair, J.

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O.P.NO.11614 of 2002-G

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Dated this the 18th day of August, 2007

JUDGMENT

The petitioner herein has approached this court challenging Ext.P4 order of assessment under the Kerala Building Tax Act, 1975 on various grounds. Relying upon the decision of a Division Bench of this court in **Lissy v. Tahsildar** (2000 (3) KLT 497), learned counsel for the petitioner submits that the assessment order itself is bad in law and the assessing authority has not considered the question as to whether the independent apartments can be independently used and hence they can be assessed only separately.

2. The order Ext.P4 is appealable under Section 11 of the Building Tax Act, before the appellate authority. In this original petition, the petitioner was directed to deposit 50% of the tax assessed as per Ext.P4. Therefore, if the petitioner files an appeal within six weeks from today before the appellate authority, the same shall be disposed of on merits without insisting for further payment of the amount assessed as per Ext.P4, within a further period of two months. The petitioner shall be allowed an opportunity for hearing and also opportunity to produce evidence or

materials which he may rely upon in support of his contentions including the cost of construction. Till orders are passed and communicated, no recovery shall be made based on Ext.P4.

The original petition is disposed of in the above terms. No costs.

(T.R. Ramachandran Nair, Judge.)

kav/

T.R. Ramachandran Nair, J.

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O.P. No.11614 of 2002-G

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JUDGMENT

18th August, 2007.